

SIGHTING THE HILAAL WITH OPTICAL INSTRUMENTS



By:
Mujlisul Ulama of South Africa
PO Box 3393
Port Elizabeth, 6056
South Africa

INTRODUCTION

In Ramadhaan 1443, Mufti Ya'qub in U.S.A. had published his view on the issue of sighting the hilaal with binoculars and telescopes. He had correctly concluded that such optical instruments may not be used for sighting and confirming the hilaal for the Islamic months. The publication of his research paper has created considerable controversy among the Ulama of U.S.A. whose view is that it is permissible to utilize optical instruments for sighting the hilaal. His research paper was sent to us for comment.

While we are in agreement with the view expressed by Mufti Ya'qub, we are not in agreement with him regarding the dalaa-il (proofs which he had proffered in substantiation of his view.)

The Muftis of Markajul Fikril Islami Bangladesh (MFIB), the Central Hilaal Committee (CHC) of U.S.A., and one Abu Sulaiman of Makkah Mukarramah have refuted the view of Mufti Ya'qub.

They published their rebuttals.

Mujlisul Ulama of S.A.

SIGHTING THE HILAAL WITH OPTICAL INSTRUMENTS

Question

One of our Mufti Sahibs here in the U.S.A. has done a research regarding the sighting of the hilaal by means of binoculars and telescopes. According to him, it is not permissible to use such instruments to sight the hilaal. Such sightings are not valid. Please study his research and comment. Is it permissible to sight the moon with binoculars and telescopes? Hadhrat Maulana Ashraf Ali Thanvi (Rahmatullah alayh) had issued the fatwa that it is permissible and valid for confirming a sighting. On the basis of Hadhrat Thanvi's Fatwa, all Muftis related to Deoband also say that it is valid.

Answer

We have perused the research of the Mufti Sahib. While we are in agreement that the *hilaal* cannot be confirmed with a sighting by means of optical instruments (binoculars, telescopes, etc.), we do not agree with the *dalaa-il* of the Mufti Sahib.

The Mufti Sahib based his conclusions on making *qiyaas* on the *masaa-il* pertaining to viewing the reflection of certain objects in a mirror or in water. The Fuqaha have rejected the validity of viewing the reflection, hence *Hurmat-e-Musaaharah* is not

established, nor is *Khiyaar-e-Rooyat* negated, nor will the *Yameen* be violated.

Although there exists difference of opinion among the Fuqaha on these issues, there is no need to traverse these masaa-il and to extend the ruling to the issue of seeing the hilaal in a mirror or in clear water. According to Hadhrat Maulana Ashraf Ali Thanvi (Rahmatullah alayh) the sighting will be confirmed if the reflection of the hilaal is seen in water or a mirror.

The Mufti Sahib's research to establish the impermissibility of using optical instruments for confirming sightings of the hilaal was unnecessary. The *Ruyat* (*sighting*) of the hilaal should not be analogized on the basis of the three aforementioned masaa-il. The objectives of the *Ruyat* in the three masaa-il and the hilaal differ. At this juncture it is needless to go into the details of the aforementioned three masaa-il on which the Mufti Sahib has based the impermissibility of optical instruments.

Ruyat of the Hilaal is a separate mas'alah entirely independent of the issues utilized by the Mufti Sahib to arrive at his conclusion with which we do agree. The mas'alah is conspicuous. It is clear and requires no *qiyaas* for substantiating the invalidity of sightings by means of optical instruments.

Rasulullah (Sallallahu alayhi wasallam) had stated the principle very clearly, namely *Ruyat of the Hilaal*. It is imperative to see (*ruyat*) the *hilaal* to confirm it. Seeing its reflection is not *Ruyat-e-Hilaal*. The image in a mirror or in water is not the *hilaal*. Thus the sight of the *hilaal* in a mirror or in water is not *Ruyat-e-Hilaal*. There is no need for extrapolation or to seek a basis in other masaa-il for this impermissibility.

The image of the *hilaal* seen with a binoculars and the like is a reflection of the moon. It is not the *hilaal* which is seen with the naked eye. The image of the *hilaal* reaches the eye of the observer via a series of mirrors in the optical instrument. Thus it is a reflection of the moon or it could possibly be the reflection of another heavenly body such as the star Venus which could have the appearance of the *hilaal* as the Mufti Sahib has explained in his research.

Hadhrat Maulana Ashraf Ali Thanvi (Rahmatullah alayh) has erred in this matter. This error casts no adversity and is not an aspersion on the greatness and glory of the Ilm and status of Hadhrat (Rahmatullah alayh). Hadhrat Thanvi (Rahmatullah alayh) had in fact issued many retractions on other masaa-il as well. We are confident that if Hadhrat was alive today and the functioning of the binoculars explained

to him, he would readily issue a retraction of his fatwa as he has done with many other fatawaa.

As for the mirror/water image accepted as valid by Hadhrat Thanvi (Rahmatullah alayh), this is clearly an error of opinion in view of the fact that the Hadith categorically states that the *hilaal* must be seen, not its reflection.

If this opinion has to be accepted, then tomorrow it will be argued that sighting the hilaal whose image is projected on a television screen at the same time as people are searching for it, is valid. The reflected/depicted image on the television screen is also a reflection such as the image in the binoculars. In fact, there are devices by means of which hilaal depictions could be made on television screens enabling people to view the 'hilaal' sitting in their homes. This stage may yet develop. There is no dearth of *zindeeqs* to employ this method for confirming the '*hilaal*'.

It is necessary to draw attention to the fact, that the Mufti Sahib had not acquitted himself with complete honesty and *ikhlaas* in his research. In his research paper, he mentioned the fatwas of

Hadhrat Thanvi (Rahmatullah alayh)
Fataawa Darul Uloom Deoband

Mufti Ahmad Khanpuri
Mufti Ebrahim Salejee (Isipingo Beach)

All of the abovementioned venerable Muftis have ruled that sighting by means of optical instruments is valid. They all based it on the Fatwa of Hadhrat Thanvi (Rahmatullah alayh). And, the Mufti Sahib (Yusuf ibn Yaqub of U.S.A.) rejects their fatwas. Ending his research paper, he says:

“Eternally grateful student and servant of the late, great, Mufti Ebrahim Desai (rh).”

Yet, he deemed it prudent to conceal the fatwa of the “great Mufti Ebrahim Desai”. The following is the Fatwa of the “great Mufti Ebrahim Desai”:

“QUESTION

3 August 2019

Asslamou Alaikoum Warahmatullah.

Respected Mufti saahib, i would like to inquire about the issue of moon sighting of Eid nor new month using binoculars and telescopes. What is the sahar'ee ruling? There are some new groups in my country recently created a moon sighting committee claiming they will use any technological means and that it is perfectly fine according to sharia instead of naked

eye sighting. Can i have some source material i could refer to?

Jazakumullah Kheiran

ANSWER

In the Name of Allah, the Most Gracious, the Most Merciful.

As-salāmu ‘alaykum wa-rahmatullāhi wa-barakātuh.

What do you mean by any technological means to sight the moon? If you are referring to sighting the moon through binoculars and telescopes, then that is permissible. The sighting of the crescent through a binocular or telescope is valid.[i]

If you refer to anything else, then please clarify what other technological means you are referring to as the ruling may differ.

You may email your clarification to:
admin@daruliftaa.net Ref: Hammad Jogiat

And Allah Ta’āla Knows Best

Hammad Ibn Ismail Jogiat
Student Darul Iftaa
Cambridge, Ontario, Canada

Checked and Approved by, Mufti Ebrahim Desai.

فتاویٰ قاسمیہ - مؤلف : حضرت مولانا مفتی شبیر احمد القاسمی صاحب - ناشر : مکتبہ اشرفیہ دیوبند الہند
(ج: 11 ص: 443) [۱]

دور بین و خورد بین کی رؤیت کا حکم

باسمہ سبحانہ تعالیٰ

الجواب وبالله التوفیق: فقہاء نے خورد بین اور دور بین کو عینک کا درجہ دیا ہے ، لہذا اس سے رؤیت معتبر ہے ۔
(مستفاد: امداد الفتاویٰ ۲/۱۱۵) فقط واللہ سبحانہ وتعالیٰ اعلم

کتاب المسائل - مؤلف : مولانا مفتی سید محمد سلمان منصور پوری صاحب - ناشر : المركز العلمی للنشر
والتحقیق مراد آباد، انڈیا (ج: 2 ص: 124)

دور بین سے چاند دیکھنا

دور بین اور خورد بین سے بھی چاند دیکھنا شرعاً معتبر ہے۔ (کیونکہ یہ آلات صرف دیکھنے میں سہولت پیدا کرتے ہیں، معدوم کو موجود نہیں کر سکتے)

امداد الفتاویٰ جدید - جدید مطول حاشیہ شبیر احمد القاسمی - ناشر : زکریا بک ڈپو دیوبند ، سہارنپور ، یوپی
انڈیا (ج: 4 ص: 191)

حضرت والا تھانویؒ نے دور بین اور خورد بین سے چاند دیکھنے کو عینک اور چشمہ لگا کر دیکھنے کی (۴) طرح قرار دیا ہے؛ لہذا دور بین اور خورد بین سے چاند دیکھنے کی صورت میں رؤیت معتبر ہو جائے گی۔

امداد الفتاویٰ - مؤلف: مولانا اشرف علی تھانوی - ناشر: مکتبہ دار العلوم کراچی (ج: 2 ص: 140)

فتاویٰ دار العلوم زکریا - مؤلف: مفتی رضاء الحق - ناشر: زمزم پبلیشر (ج: 3 ص: 243)

رمضان اور جدید مسائل - جدید محقق و اضافہ شدہ ایڈیشن - مؤلف : حضرت مولانا مفتی محمد شعیب اللہ خان صاحب مفتاحی - ناشر : شعبہ تحقیق و اشاعت - الجامعة الاسلامیہ مسیح العلوم ، بنگلور انڈیا (ص: 70)

محمود الفتاویٰ - مؤلف: مفتی احمد خانبوری - ناشر: مکتبہ انور (ج: 4 ص: 323)

Read more at

https://www.askimam.org/public/question_detail/428

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(End of the fatwa of the “great Mufti Ebrahim Desai”)

Why did this “great Mufti’s” student, Mufti Yusuf ibn Yaqub, conceal the fatwa of his Ustaadh? He has taken to task our illustrious Hadhrat Maulana Ashraf Ali Thanvi (Rahmatullah alayh), as if Hadhrat was some junior, and he has dismissed the fatwas of the other Muftis, but he sought to conceal the fatwa of his own Ustaadh, the “great Mufti Ebrahim Desai” whose fatwa is 100% in concurrence with the Fatwa of all the other seniors. In fact, the fatwa of the “great Mufti Ebrahim Desai” is based 100% on the Fatwa of Hadhrat Maulana Ashraf Ali Thanvi (Rahmatullah alayh).

By concealing his Ustaadh’s view, Mufti Yusuf ibn Yaqub conveys the impression that the “great Mufti Ebrahim Desai” held the view of impermissibility of using optical instruments.

May Allah Ta’ala always guide us and bestow to us the bounty of *Ikhlaas*.

OUR RESPONSE TO THE VIEW OF THE HONOURABLE MUFTIS OF MARKAJUL FIKRIL ISLAMI BANGLADESH (MFIB)

We are not in agreement with the view of permissibility expressed by the venerable Muftis of MFIB. The view is based on unsubstantiated suppositions which are devoid of Shar'i substance. MFIB basis its view of the validity of sighting the hilaal with binoculars and telescopes on suppositions regarding which their Mufti says:

The erroneous claim of Ittiffaaq (Consensus) regarding the loudspeaker and the radio

“The following muttafaqah (unanimous) masaa-il is the example for this mas’alah (of optical instruments).

(1) The loudspeaker: Despite the Qiraa’t of the Imaam over the loudspeaker being the aqs (reflection) of the voice, the Muftis have set aside the technological subtleties and have decreed that it is in fact the voice of the speaker based on urf (the customary understanding) of the masses.

Our comment: It is not an issue of technological subtleties. It is a real, factual issue, the truth of

which cannot be denied or dismissed on the understanding of the *awaam* (masses) or of muftis who lack knowledge in this regard. The urf of the masses is being misapplied. There are many haraam acts and practices today which in terms of their urf of the *awaam* are halaal, e.g. *riba*, shaving the beard, *kuffaar* dress, intermingling of sexes, music pictures, etc., etc. Today the masses are the progeny of *Iblees*. The claim of *ittifaaq* is baseless.

(2) Although Sajdah Tilaawat is not Waajib when heard on a tape recording, the Sajdah will be Waajib if recited over the radio in a live programme despite the fact that it is not the exact voice of the Qaari. After a variety of mechanical interventions it is the reflection of the voice.

Our comment: Sajdah is NOT Waajib if the Sajdah Aayat is heard over the radio regardless of the programme/broadcast being so-called ‘live’. It is a baseless figment of the imagination to understand that the voice being broadcast over the radio is the voice of the qaari. There is no difference between broadcastings which are ‘live and dead’. The only difference is that the the sound is heard almost simultaneous with its emergence from the mouth of the speaker. This is exactly the same in a live television programme. It is mistakenly understood

by people that the image on the screen is that of the person and not his picture. It is the reconstruction of numerous pictures of the speaker or the appearer. The Qiraa't in not *Saheeh* in terms of the Shariah. The claim of *ittifaaq* here too is baseless.

(3) It will be Masnoon to respond to the Athaan over the radio if it is a live programme and not a recording."

Our comment: It is not Masnoon to respond to a parrot reciting the Athaan, nor to the Athaan of an echo. The Athaan over the radio is not the Athaan of a human being. It is the sound of a reconstructed voice. Notwithstanding the swiftness of the reconstruction, it is NOT the Athaan of a living human being. The claim of *Ittiffaaq* is incorrect.

Spurious arguments – No Mansoos basis

The argument of permissibility based on the aforementioned three *nazaa-ir* is spurious. Firstly, these examples are not *Mansoos* masaa-il. Thus, they do not constitute a valid *Maqees Alayh* for structuring a Shar'i *hukm*. Secondly, the claim of consensus on these examples is incorrect. Thirdly, assuming that there is

consensus of the recent Muftis on these issues, then too, a Mufti has the right to differ with such consensus which is based on pure *raai* (*opinion*), not on *Nass-e-Shar'i*.

The three aforementioned *nazaa-ir*, not having any *Mansoos* basis, neither in the Qur'aan, nor on the Ahaadith nor in the statements of the Fuqaha, may not be presented as a basis for validating sighting of the hilaal with optical instruments. In fact, it is absolutely corrupt and baseless. An instrument or device invented by the kuffaar can never be a Shar'i basis for a *Hukum* on which there exists profound clarity from Rasulullah (Sallallahu alayhi wasallam) who had commanded the commencement of the Saum after physical *Rooyat* (*Sighting*).

Furthermore, the claim of *ittifaaq* (*consensus*) stated by MFIB regarding the use of the loudspeaker in Salaat is incorrect. There never existed such consensus of our Akaabir as is claimed. On the contrary, there is consensus of our Akaabir that it is ***not permissible*** to use loudspeakers in Salaat. The difference of opinion among our Akaabir pertains to the issue of *fasaad*. While some say that the loudspeaker is *mufsid-e-salaat* (that it invalidates salaas), others say that despite the impermissibility of using the device in Salaat, it does not invalidate Salaat.

Furthermore, the fatwa of impermissibility of using the loudspeaker according to our Akaabir, was issued on the basis of the understanding that the sound emitted by the loudspeaker is the **actual voice** of the speaker (*ain awaaz*) while MFIB says that it is a reflection (*aks*) of the voice, and that it is not the actual voice of the recite. Thus, notwithstanding the mistaken idea of the Akaabir, namely that the sound being emitted is the actual voice of the speaker, they (the Akaabir) issued the fatwa of impermissibility.

Assuming that MFIB is correct regarding the voice not being the original voice of the Imaam, then there will be consensus on *fasaad-e-salaat*. And, the reality is that the transmitted sound is not the original voice of the speaker. It is the *aks* as the MFIB correctly avers. Therefore, on this basis all our earlier Akaabir have ittifaaq on the issue of *fasaad-e-salaat*.

We do not accept that Sajdah is Waajib when an Aayat of Tilaawat is heard over the radio. This is indeed a silly basis for claiming that optical instruments are permissible for a valid hilaal sighting. Sajdah is not Waajib in this case. Common sense is adequate for understanding that the voice reaching one over the radio from thousands of kilometres can never be the original voice. The original voice to reach one's ears has a very limited scope of distance.

The radio voice is never the original voice. It is a reconstructed voice just as pictures transmitted by television are reconstructed images, and not the original images.

The opinion of MIFB that Sajdah is Waajib in this scenario, is their personal *raai* (opinion) bereft of any Shar'i substance. Only a person not applying his mind will claim that the enlarged image seen by means of a magnifying glass is the original object. Regardless of likeness, it is not the original object. Similarly, the magnified sound is not the original voice. It is a reconstruction of the original voice.

Furooe masaa-il

Similarly, it is spurious and baseless to aver that it is Masnoon to respond to the Athaan recited over the radio. On the assumption that it is Masnoon to respond to the radio's Athaan and Sajdah is Waajib, then too, this does not constitute a valid Shar'i basis and daleel for claiming that sighting the moon with optical instruments is valid. All these new *furooe massa-il* are in need of Shar'i *dalaa-il*. The one does not constitute a *Maqees Alayh* for the other. All are reliant on specific *daleel of the Shariah*.

This type of baseless argument is proffered by those molvis who claim that the television picture and digital picture are not prohibited *tasweer*. They argue

in the same way as honourable Muftis of MFIB. On the basis of such flawed and baseless arguments have they rendered halaal pictures of animate objects.

Issues such as the loudspeaker, radio, telescopes, etc. are of the *Furoo* ' category. The *17alai* for such issues are in need of Shar'i *17alai-il*. A new development cannot be presented as a Shar'i *daleel*. The loudspeaker and the radio require *daleel* –solid Shar'I proof - for *jawaaz or hurmat*. One may not say that optical instruments for sighting the moon are permissible because the loudspeaker is permissible. This is not a *daleel*. The loudspeaker itself is in need of a *daleel* for permissibility. It does not have the ability to be the *maqees alayh*.

The three examples cited by MFIB are devoid of substance. Permissibility of using optical instruments for sighting and confirming the hilaal cannot be deduced from the dubious permissibility of using loudspeakers in Salaat.

The Reflection of an object

MFIB states: “*Looking (at the reflection) in water and in the miorror is also said to be rooyat.*”

While looking in a mirror or in water or at anything whatsoever is *rooyat*, it is not the issue. The issue is *rooyat* of the *hilaal* as commanded in the Hadith. In

the mirror and water, there is no *rooyat* of the hilaal. It is the *rooyat* of the *reflection*. There is a vast difference in the two kinds of *rooyat*. If four persons observe in a mirror zina being committed, their *shahaadat* will not be accepted since their *rooyat* in this case is not valid. If two persons see in a mirror theft being committed, their *shahaadat* is unacceptable for conviction and sentencing.

In the future *rooyat* of the hilaal may be made on television screens whilst sitting in the comfort of homes. The image of the hilaal can be projected on television screens simultaneous with the appearance of the hilaal. The *rooyat on the screen* will not be valid for confirming the hilaal. It is necessary that there should be *rooyat* of the ***hilaal*** itself, not of its reflection or its image in another substratum such as a mirror or water.

Basing validity of sighting on the reflection of the hilaal can and will develop into future misguidance and total abandonment of the command of *Rooyat-e-Hilaal*. If the reflection seen in a telescope is accepted as valid, then in the same way will the reflection of the hilaal projected on the television screen be valid.

The Mutlaq Hukum

MFIB states:

“ ‘*Soomoo li rooyatihi*’ is a *Mutlaq hukum* and it is not valid to make *Qiyaas* of *Mutlaq* on something which is *Muqayyad*. ”

The view of invalidity of sighting with optical instruments is not making *muqayyad* of that which is *mutlaq*. It is in fact emphasizing the *Mutlaq hukum*. The honourable Muftis convey the ideal that the *hukum* of *rooyat-e-hilaal* is *Mujmal* (ambiguous and unclear), hence they have in fact made *muqayyad* its understanding with further developments from time to time. But the reality is that there is absolutely no ambiguity in the command of *Rooyat-e-Hilaal*. Sighting the reflection of the hilaal in fact negates *rooyat* of the hilaal for the simple reason that the Hadith orders *rooyat* of the hilaal, not *rooyat* of its reflection (*aks*).

The attitude of the Fuqaha

The Fuqaha had introduced the dimension of *reflection* in water and mirror with regard to other masaa-il, but they did not discuss it in relation to the hilaal because the meaning of *rooyat-e-hilaal* was quite obvious and required no elaboration. Every person, regardless of who he is or wherever he may be, understands the meaning of sighting the moon. The issue of sighting its reflection was the furthest from the minds of people and from even the Fuqaha.

The Fuqaha were extremely farsighted and were a special class of Ulama created by Allah Ta'ala to prepare the Shariah for all people of all times until the Day of Qiyaamah. If the reflection of the moon had any validity, it would not have escaped the attention of the Fuqaha. They went to great lengths in discussing on assumed (*farzi*) issues which could act as a basis for posterity regarding new expedencies. A *reflection* is not a phenomenon which has developed only now. It always existed. However, since it had no validity regarding *rooyat-e-hilaal*, the Fuqaha did not touch it while they did elaborate on the issue of *reflection* pertaining to other masaa-il.

Khiyaar-e-Rooyat

MFIB further states:

“The objective of Khiyaar-e-Rooyat in trade transactions is for eliminating such ignorance which leads to dispute. The actual objective (asal maqsad) is not seeing the article (of sale). It is not rooyat-e-ain.”

In the same way we say that the *asal maqsad* pertaining to the moon is *rooyat-e-ain*. It is quite obvious that when Rasulullah (Sallallahu alayhi wasallam) ordered *Rooyat-e-Hilaal*, he meant *Ain-e-Hilaal*, not *aqs-e-hilaal*.

That is why there is the need for even *Shahaadat* to confirm the *rooyat*. If someone testifies that that he has seen the reflection of the moon in water, it will not be said that it is a valid *shahaadat* for having seen the actual hilaal. A man who sees the reflection in water/mirror may not take a *qasam* (oath) that he has seen the actual hilaal. It will be a false oath.

Thuboot (Verification)

MFIB says:

“Regarding rooyat-e-hilaal, in reality the knowledge of verification is the objective (thuboot ka ilm matloob he), and for this (objective) mere rooyat (sighting) is adequate regardless of whether the rooyat was of the actual object (ain) or the reflection of that time (of the appearance of the object). In both cases nafs-e-rooyat is present.”

This argument is putrid and corrupt. The command of the Shariah is to make *rooyat* of a specific object, namely the hilaal, not of something else which is not the objective of the *rooyat* mentioned in the Hadith. The modernist astronomers also argue the *thuboot* of the hilaal thereby denying the imperative importance of *rooyat*. The modernists claim that regardless of the inability to sight the moon, after its birth it is present on the horizon, hence the month should be commenced. If the *principle is thuboot*, it is what the

deviates claim in negation of the fundamental importance of *rooyat*.

Thuboot of the hilaal on the horizon after its birth is known to everyone. But such *thuboot* is not valid without *rooyat*. Just as *thuboot* is established by *rooyat* so too is it established by astronomical calculations, but the latter is *baatil* as far as the *rooyat-e-hilaal* command is concerned.

Our explanation has no relation to the *Bay' mas'lah* which MFIB is refuting. Our argument is simple and devoid of any intricacy. It is just the issue of *rooyat-e-hilaal* which is not reliant on the several other issues which had been introduced to argue the case in favour of seeing the actual hilaal.

All the arguments presented by MFIB in its refutation of Mufti Yaqub's article, are of no concern to us. The only issue as far as we are concerned is *Rooyat-e-Hilaal* – the sighting of the actual moon, not of its reflection.

No Valid Daleel

MFIB has not presented a single valid daleel to bolster its view. It proffered the spurious example of the loudspeaker and the radio. It is indeed ludicrous to posit these devices as *daleel*. These devices for their permissibility are themselves in need of *daleel*.

A Shar'i *hukm* cannot be structured on such putrid baseless premises.

The arguments which MFIB has proffered in refutation of Mufti Yaqub's dalaa-il related to several other masaa-il which he has presented to vindicate his stance, has been generally ignored by us since we too believe that despite Mufti Yaqub's understanding of impermissibility of using optical instruments being valid, his dalaa-il are not valid relative to the Fiqhi masaa-il. There was no need to advance the other masaa-il. The issue regarding *Rooyat-e-Hilaal* is simple and crisp. By means of optical instruments *rooyat* of the *aks* takes place, not *rooyat* of *ain-e-hilaal*. This is the be all of this simple issue which the honourable Muftis, including Mufti Yaqub, have obfuscated with a variety of uncalled for arguments.

Rasulullah (Sallallahu alayhi wasallam) ordered us to recite the following Dua when seeing the moon (not the new moon), but the moon every night:

أَعُوذُ بِاللَّهِ مِنْ شَرِّ هَذَا الْغَاسِقِ

“O Allah! I seek Your protection from the evil of this Ghaasiq (this object which conceals itself in darkness).”

Perhaps the honourable Muftis have forgotten about this Dua, hence are plagued by this *Ghaasiq*. Thus, they dwell in a labyrinth of mental confusion which precludes understanding of simple issues which did not pose any problem to the Sahaabah and the Fuqaha during Khairul Quroon.

OUR RESPONSE TO THE RESEARCH OF CENTRAL HILAL COMMITTEE (CHC)

The CHC has dealt primarily with the arguments tendered by Mufti Ya'qub. We too are not in agreement with Mufti Ya'qub's arguments despite our agreement with his view. There is no need for us to traverse the Fiqhi arguments of the two parties pertaining to *rooyat* relative to *bay'* and *musaaharat*.

The primary issue of contention is *rooyat* of the *ain* and *rooyat* of the *aks*.

Binoculars and Telescopes

In this regard, CHC says:

“....the question here is what is the telescope doing to an object at a distance? Is it distorting it or producing something that is not there? Or is it bringing the said object in the distance closer to the eye which will observe the object.....What would we say if a person went to an elevated location, bringing himself up to a far-off object instead of the other way around? Or if a person wore eyeglasses and sighted from a high location, when the Fuqaha clearly accept it?”

It does not bring the object closer to the observer. It brings the reflected image of the object into close proximity of the eye.

To bolster this statement, CHC cites an Arabic text from *Raddul Muhtaar* without presenting its translation for some unknown reason. CHC has presented the English translations for all the other Arabic and Urdu texts it has mentioned, but not for this one from *Raddul Muhtaar*.

We have inferred that the translation was not proffered because the Arabic text does not support the contention mentioned above. In this text there is no reference to sighting from a height with eyeglasses.

The validity of sighting from a height is simply because it is a true *Rooyat*. Whether the *rooyat* is from a height or at sea level, there is no difference. The fundamental requisite of *Rooyat-e-Hilaal* is fulfilled. Sighting from both levels is sighting the actual (*asal*) hilaal. It is not the sighting of its reflection (*aks*). *Raddul Muhtaar* states with clarity that the horizon is clearer if viewed from a height, hence at times the hilaal can be seen from a height whilst not from lower ground. The issue stated in the aforementioned text of *Raddul Muhtaar* has

absolutely no relationship with eyeglasses nor with seeing a reflection of the hilaal.

The text from *Al-Fatawal Hindiyyah* merely states:

“At-Tahaawi said: ‘The shahaadat of one person shall be accepted when he comes from outside the city. Similarly, when he is on an elevated place.’”

This is no reference whatsoever to eyeglasses, telescopes, etc. in what Tahaawi said. The one person has to incumbently give *shahaadat* (testify) on the basis of his *rooyat* of the actual hilaal.

The statements of Odeh of ICOP and others mentioned by CHC confirm that all of them have understood that the image viewed in the telescope is the *asal* (actual) hilaal. None of them have understood that what they are seeing is in fact a reflection of the hilaal.

Shaikh al-Muti of Egypt as quoted by CHC states:

“In our view, the testimony of one who sighted the hilal with binoculars will be accepted when the hilal is possible to be sighted without enhanced vision....”

The Shaikh has stipulated the condition “*when the hilal is possible to be sighted*”. Thus, it flows from this that there can be times when the hilaal can be

sighted by means of a telescope whilst it being impossible to sight it with the naked eye, e.g. a couple of hours after the birth of the moon. This supposition completely prohibits using telescopes, etc. for sighting the hilaal.

We have not understood what is meant by “*without enhanced vision*”. If CHC explains, we shall, Insha-Allah, respond.

In their conclusion, CHC states:

“With the previously mentioned conditions (visibility curves, possible altitudinal positioning and reasonable atmospheric conditions) for a person to sight the moon, there is reason to accept the sighting through binoculars and telescopes, precisely because the object observed is only one, and there are no questions about its presence. This is only to prove that it is there and observable in the sky, and hence it was seen...”

Regardless of the moon being seen or not, everyone is aware of its presence in the sky. The presence of the hilaal is of no significance for determining the Islamic months. It is the *rooyat* of the *asal*, not of the *aks*, which is the determinant. The deviate modernist astronomers base their view on the presence of the moon. The birth of the moon brings it onto the

horizon despite the fact that the naked eyes cannot see it immediately after its birth.

CHC has listed a number of conditions for the validity of sightings by telescopes. It follows that sighting with a telescope is possible minus the conditions. Now if the hilaal is visible by means of a telescope, then there is no intelligent reason to reject the validity of the sighting in the absence of the listed conditions. The moon is present and it has been sighted validly with a telescope according to the votaries of optical instruments. Thus, the stipulation of conditions highlights the ambiguity of the sighting by means of a telescope.

The condition of *“if the atmospheric conditions are suitable for sighting”* then the sighting with a telescope will be valid. This is incongruous for the simple reason that regardless of the unsuitable atmospheric conditions, if the hilaal is seen through a telescope then it should be valid according to the view of permissibility. Despite the atmospheric conditions not being suitable for sighting, the *shahaadat* of one man coming from the outskirts of the city will be valid, so why should the sighting of the telescope not be valid in the same scenario according to those who claim that sighting with telescopes is permissible?

The Logical position

The only logical argument which has validity, proffered by the votaries of optical instruments is the fact that the telescope does not create anything new. It only indicates what exists in reality. While this is accepted, it has to be set aside in view of the fact that according to *Nass*, *rooyat* of the actual hilaal is Waajib, not of its reflection. There is no gainsaying in the fact that the image in the telescope is a reflection of the moon, it is not the actual moon.

CONCLUSION

Despite our view, it must be stated with clarity that we are not dogmatic on our view. Since our view is based on our understanding based on the principles of the Shariah – and not on Wahi – error cannot be excluded.

OUR RESPONSE TO THE RESPONSE OF ABU SULAIMAN

The issue of sighting the hilaal from mountains and elevated locations is really a non-issue in relation to the topic of this discussion, namely sighting with optical instruments. Whether the hilaal is sighted at sea level or from Mount Everest, the sighting will be valid if effected with the naked eye.

Also the averment that people were not sent out to sight the moon during the era of the Sahaabah is incorrect. Hadhrat Ibn Umar (Radhiyallahu anhu) would in fact send several people to the outskirts to search for the hilaal. This is merely by the way. It has no bearing on the matter of contention. Thus the discussion pertaining to sighting from mountains and outskirts is superfluous and futile. It has no relevance to the issue of sighting with optical instruments. In having introduced this discussion, Abu Sulaiman has not dented the view of Mufti Yaqub.

Shaikh al-Mut'i's view

In the extract from his kitaab cited by Abu Sulaiman, Shaikh al-Mut'i states:

*“The seen object seen by means of the telescope is **ainul hilaal** (the actual hilaal).”*

This understanding of Shaikh al-Mut'i is fallacious. In the telescope, *ainul hilaal* is not seen. *Aksul Hilaal* –the reflection of the moon – is seen. On the basis of this misunderstanding did the venerable Shaikh conclude the permissibility of the *shahaadat* of the person who sees a reflection of the object, but testifies that he has seen the actual object (*ain*).

If a person sees in a mirror theft or zina being committed, he may not give *shahaadat* that he has seen the actual persons committing the crimes. If anyone claims that testifying on the basis of having seen the reflection is valid, then he should produce his *Shar'i daleel* for his preposterous claim.

The honourable Shaikh clearly laboured under the misapprehension that *ainul hilaal* is seen by way of the telescope when in reality, it is the reflection (*aks*) of the hilaal. If the Shaikh was better apprized and had awareness of this fact, we are certain that he would not have approved sighting with optical instruments. This is evident from the very passage cited by Abu Sulaiman from al-Muti's *Kitab Irshaad*.

In the extract proffered by Abu Sulaiman, the venerable Shaikh says:

“That which our (Hanafi) Mashaaikh have said regarding non-reliance on seeing it (hilaal) in water

or from behind a glass is based on the fact that the seen object

is a likeness (mithaal) of the hilaal, not ainul hilaal, for verily, seeing the hilaal in water or from behind a glass is by way of reflection (al-inkaas). Therefore, in this case the seen entity is not ainul hilaal....hence shahaadat shall not be accepted (of one who has seen the reflection).

The Shaikh's conclusion: "*Seeing with telescopes is like seeing with the (naked) eye without any difference..*" This conclusion is preposterous and manifestly fallacious. The image in the telescope is without doubt a reflection of the object. It is never the actual object.

Abu Sulaiman alleges:

"Sighting the moon using eyeglasses, binoculars, or a telescope is just like sighting it with the naked eye. Since sighting it with the naked eye is valid, so these situations will be valid as well."

We reject this flawed syllogistic argument. The premiss: '*is just like sighting with the naked eye*' is fallacious, hence the conclusion too is baseless. With the telescope and binoculars the reflection is seen, the hilaal is not seen.

The fundamental feigned misunderstanding which obfuscates the issue is the fact that those who are today aware of the fact that it is the reflection (*aks*) which is seen by means of optical instruments, not the actual (*asal*) hilaal, seek to conceal it and to peddle the idea that it is *ainul hilaal* being seen as Shaikh al-Muti and others have understood on the basis of what was explained to them. The Shaikh had stated unequivocally that *shahaadat* of having seen the hilaal based on having seen its reflection, is not valid.

Pursuing his untenable argument, Abu Sulaiman says:

“Nonetheless, it is a point to note that regardless of the mechanism of the device (be it eyeglasses or binoculars, telescope, and all their different types), the image is still skewed and different when looking through them. If that is not a problem in this matter, there is no need to go further. If that is a problem, and there is an exception afforded to eyeglasses, it should be afforded to the other devices as well, on the merit that they all cause the image to be skewed to some degree albeit with different mechanisms.”

This is indeed a silly dimension introduced by Abu Sulaiman. The ‘skewed’ factor does not feature anywhere in this contentious topic. Since he has introduced this factor, we must say that far from

acceptability being extended to telescopes / binoculars on the basis of its acceptance for eyeglasses, the latter devices must be rejected for the resultant distortion which emphasizes the fact that it is not *ainul hilaal* which is seen, but its reflection passed from one mirror to another mirror.

There is no Shar'i incumbency to transfer the exception made for eyeglasses to telescopes and binoculars. Whatever the basis may be for the exception relative to eyeglasses is not our concern at this juncture. The validity of using eyeglasses should be substantiated by means of Shar'i daleel by those who claim its permissibility. Thereafter the issue shall be examined and commented on.

Abu Sulaiman has also now made *qiyaas* of telescopes on eyeglasses whose permissibility Mufti Ya'qub said was *khilaaf-e-qiyaas*. We reiterate that we are not delving in this 'exception' at this stage. We have mentioned the eyeglass only to highlight the fallacy of Abu Sulaiman's argument.

A rule applicable to an exceptional case may not be extended to telescopes and binoculars, since their use for hilaal sighting is totally uncalled for. There is no need (*dhuroorat*) whatsoever to resort to the use of these devices for sighting the hilaal. We have the glittering Sunnah of Rasulullah (Sallallahu alayh

wasallam) and the Sahaabah to guide us. This Sunnah is not in need of any complimentary or supplementary devices and instruments which only create obfuscation.

The Skewed Image

The *skewed* image enforces the argument that telescopes, etc. should not be used because the image seen is not the actual hilaal. It is the reflection of the hilaal. If it was *ainul hilaal* it would not have been skewed.

Eyeglasses have been made an exception, not on the basis of the ‘skewed’ factor. Whatever the basis of the exception may be, it is not the ‘skewed’ image. Thus, there is absolutely no merit in this argument presented by Abu Sulaiman.

The Fuqaha and the moon in water/mirror

Regarding this issue, Abu Sulaiman avers:

“In fact, there is no mention in the entire corpus of Fiqh regarding sighting the moon in water or in a mirror. The Fuqaha are silent regarding this matter. Did these situations not exist in the past millennium? As long as water existed, mirrors existed and the moon existed, it was very possible that these situations could occur.....The question remains as to why they did not mention it at all.”

But Shaikh al-Muti mentions it.

It is inconceivable that our illustrious Fuqaha would have been in the dark regarding this issue. They had commented on reflections in water and mirrors with regard to other masaa-il, so why did they not do likewise regarding the moon? The simple answer is that in terms of the command of Rasulullah (Sallalalhu alayhi wasallam) *Rooyatul Ain* is Fardh. Since the imperative need is to sight the actual hilaal, not its image, it was superfluous and futile for the Fuqaha to traverse the issue of the hilaal's reflection.

This is the reason for them not having discussed the reflection of the moon. However, with regard to the other masaa-il, there is no *Nass* from Rasulullah (Sallalalhu alayhi wasallam), hence the Fuqaha had to resort to suppositions to meet any future developing eventuality.

In this regard, Abu Sulaiman committed the same blunder as Mufti Ya'qub who had endeavoured to outlaw optical instruments on the basis of *rooyat* pertaining to other unrelated masaa-il. Now Abu Sulaiman is making *qiyaas* of telescopes on the basis of eyeglasses. This *qiyaas* is invalid because eyeglasses are not a valid *maqees alayh*. In all probability it will be like binoculars, but excluded as

an exception for whatever reason the exception is deemed valid.

Our advice for brother Abu Sulaiman and all the other Muftis is to always recite the Masnoon Moon Dua whenever they see the moon with their eyes. This will assist to eliminate the superfluities which clutter their researches. A simple issue has been transformed into something intractable with incongruities.

أَعُوذُ بِاللَّهِ مِنْ شَرِّ هَذَا الْغَاسِقِ

“O Allah! I seek Your protection from the evil of this Ghaasiq (this object which conceals itself in darkness).”

CONCLUSION

The only factors to view and decide on are:

- (1) When sighting with a telescope does the observer see *ainul hilaal* or *aksul hilaal*?
- (2) Is it permissible to give *shahaadat* (testimony) on the basis of having seen the reflection in a mirror of persons committing a crime?

This is all that is required to clinch this puerile dispute.

SIGHTING THE HILAAL WITH TELESCOPES

“THE SHARIAH DOES NOT SANCTION IT.”

On this issue Hadhrat Mufti Muhammad Shafi' (Rahmatullah alayh) said in his booklet, The Question of Sighting the Moon and the use of Scientific Instruments:

IT IS NECESSARY to find out the reality of the question before venturing to express an opinion to the effect whether in the things which are dependent upon the sight of the moon, the mere proof the moon's existence is necessary, or whether it is necessary to see the moon with our eyes? Before seeking an answer to this in accordance with the law of Islam, it is necessary to note that every literate person invariably knows the fact that the moon does not, at any time of the day or night, disappear from its orbit, but it continues to exist and remain in circulation somewhere in its orbit at all times.

Therefore without regard to the 29th day or the 30th day, the moon could be sought and found even on the 18th day of the month through **powerful telescopes**, which might not be seen by naked eyes on account of the sun's bright rays. If the question was only centred around the moon's existence then there could be no

point in debating on the subject of 29 or 30 days of the month.

It obviously means therefore that the question is not one of the moon's existence in the sky but of the ability of seeing the moon with the eyes of the general public. On this does not only depend the determination of Ramadaan and the two Eids but a thousand other matters of the Shariat of Islam. It has tremendous effect on laws of marriage, divorce, the period of Waiting etc. etc. and if, like in the past...

This meaning of the Hadith has been further clarified in the last sentence to the effect that if the moon remain concealed – that is, it is not seen with your eyes then you are not required to resort to **astronomical calculations** to seek the existence or birth of the moon and act thereon, **or find the moon's existence through the use of telescopes and other such instruments.** The Words used in the Hadith are that: "If the moon remains hidden from you then complete thirty days to end the month." In the Arabic text the Word "**Ghumma**" is used and this is specially significant because the meaning of the Word in the dictionary and by common usage is, according to "**Qamoos wa Sharha Qamoos**" as follows:

"The words: 'Ghummal hilal alannaas' etc. are used on such occasions when there is a cloud

or some such obstacle between the moon which prevents it from being seen.”

From this we gather that the Holy Prophet himself accepted the existence of the moon when he gave the above direction to the Muslims because concealment itself pre-supposes the existence of a thing, and there could be no question of concealment of a thing which does not in fact exist. The Word used to express the meaning of concealment of an existing thing is “**Mustoor.**” For that which does not exist at all, the word used in Arabic usage is “**Ma’adoom,**” the non-existent.

And we also learn from this that there could be various reasons for the concealment of the moon from general sight of the people, so when the moon is concealed from the sight of the people and could not be seen, then the law of the Shariat lays down that, that is enough to prevent us from accepting the moon for the purposes of fasting, celebrating Eids, etc. ...

UP TILL NOW we had accepted for the purpose of discussion, that the findings of astronomical calculations and of the telescopic instruments were reliable, and on that basis we discussed the subject and found that even if they were considered **to be absolutely reliable, the law of Islam would not sanction their use** because such would not be

beneficial but harmful and create a number of difficulties.

Then on the 31st of March, an official of the Department of Astronomy of the Punjab University said in an interview with a correspondent of the P.P.A. that in the dispute involved on the subject of the moon of the Eid, people are consistently asking of the Weather Forecasters, Astronomers, etc. as to how far these calculations could be relied upon as reflecting the truth the Punjab University's Department of Astronomy, had taken a clear stand that there is no possibility of sighting the moon on the evening of Friday without the use of a telescope. Explaining further, the official said that in order that the moon could be seen it is necessary that it should have come into existence for one or more days, whereas the time shown for the moon to be seen in Karachi only allowed seven or eight hours after its existence, and the time during which the moon could be seen in Karachi has been given as eighteen minutes, and the height at which the moon could be seen was given at 325 degrees. The official said that it would be impossible to see even the full moon at this time and height, because the brightness of the sun was over a thousand times stronger than the crescent moon.

(Extracts from Mufti Shafi's treatise: The Question of Sighting the Moon and the use of Scientific Instruments)